IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6752 of 2007()

CRMP.9430/2007 of J.M.F.C.-III, PUNALUR
CRIME NO.425/07 OF PATHANAPURAM POLICE STATION

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PETITIONER/ACCUSED

VINOD @ KUNDARA,AGED 26,S/O.SASI,
PURUSHAMANGALAM VEEDU, NEAR PERUKUZHI,
KARAVOOR MURI,PIRAVANTHOOR VILLAGE.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY

RESPONDENTS: COMPLAINANT & STATE

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1. STATE OF KERALA,REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE
PATHANAPUAM POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 6752 of 2007

Dated this the 7th day of November, 2007

ORDER

Application for regular bail. The petitioner faces allegations for offences punishable, inter alia, under Sec.376 and Sec.3(1)(xii) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act. It is alleged that the victim is a girl aged about 17 years – a minor. It is further alleged that on some day in February, 2007 the victim girl was taken by the petitioner to the nearby forest and he had sexual intercourse with her forcibly thrice. She returned. She did not make any complaint to any one. Subsequently also it is alleged that he had threatened her and compelled her to have sexual intercourse with him on a couple of occasions. Thereafter, she allegedly developed pain on the abdomen. She was taken to a Doctor. The Doctor diagnosed that she was pregnant. It is thereafter that the complaint has been filed alleging the commission of rape. The complaint was lodged on 13/10/07.

The petitioner was promptly arrested on 15/10/07. He continues in custody from that date. The victim belongs to the Schedule Caste, whereas the petitioner does not belong to any such caste or tribe.

2. The learned counsel for the petitioner submits that the victim is not below the age of 18 years and that the allegations to that effect are now being made with vexatious intent. The petitioner has a further case that the alleged victim and her mother are women of disrepute and that the attempt is being made to extort money from the petitioner. The petitioner does not deserve to continue in custody, he having been kept in custody from 15/10/07. The petitioner may, in these circumstances, be granted regular bail, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor does not raise any objection. No authentic evidence about the precise age of the de facto complainant is available yet in the Case Diary, it is conceded. I have considered all the relevant inputs. I am

satisfied that the petitioner deserves to be enlarged on bail subject, of course, to appropriate conditions which shall allay the apprehension aired by the learned Public Prosecutor that the release of the petitioner and his availability in the same locality is likely to raise the tension that prevails in the locality between the members of the two communities. Appropriate conditions shall be imposed.

4. **In the result:**

(a) The application is allowed.

(b) The petitioner shall be released on bail on the following terms and conditions:

(i) The petitioner shall execute a bond for Rs.50,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer on all Mondays and Fridays between 10 a.m. and 12 noon for a period of three months and thereafter as and when directed by the

Investigating Officer in writing to do so.

(iii) During the said period of three months, the petitioner shall not enter the Sessions Division of Kollam, without the prior permission of the learned Magistrate except for the purpose of complying with condition No.(ii) above.

Sd/-

(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge